IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 877 of 2005

Between:

State of Andhra Pradesh, rep by its Commercial Tax Officer,

Mancherial Cirlce, Adilabad District

..... PETITIONER

AND

M/s. The Sirsilk Limited, Sirpur Kagaznagar, Adilabad District,

rep by the Official Liquidator, High Court of Andhra Pradesh,

Kendriya Sadan, Koti, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the Official Liquidator in not disposing the claim petition and releasing the sales tax amount due by the Respondent firm to the petitioner is illegal, arbitrary and without jurisdiction and contrary to Section 16(c) of the APGST Act and consequently declare that the Sales Tax and other amounts due under the APGST and CST Acts will have the first charge over the properties of the defaulting dealer in the light of Section 16 (C) of the APGST Act and Section 17 of the CST Act and further direct the Official Liquidator to remit the Sales Tax arrears of the Respondent company to the petitioner from the sale proceeds of the properties of the Respondent company forthwith.

Counsel for the Petitioner: MR.K.RAJI REDDY,

SPL.SC FOR COMMERCIAL TAXES

Counsel for the Respondent: THE OFFICIAL LIQUIDATOR

The Court at the stage of admission made the following :

WRIT PETITION NO.877 OF 2005

O R D E R

(Per Sri Justice M.H.S.Ansari)

Heard learned Special Standing Counsel for C.T.

The only grievance of the petitioner appears to be with regard to the inaction of the respondent-Official Liquidator in not disposing of the claim petition of the petitioner filed in Form-66 claiming the arrears of sales tax with first charge in respect of the company in liquidation. Reliance has been placed by the learned Standing Counsel on the provisions of Section 16-C of the APGST Act and Section-17 of the CST Act.

Keeping in view the scheme under the Companies Act and also keeping in view that the learned Official Liquidator acts in concurrence with and/or under the directions of the learned Company Judge, we are of the view that as an efficacious alternative remedy is provided, in terms of the statute (The Companies Act), petitioner should avail of the said remedy in stead of invoking the extraordinary jurisdiction of this Court under Article 226 of

the Constitution of India.

For the aforesaid reasons, we are not inclined to entertain the instant writ petition, same is accordingly dismissed at admission stage, without going into the merits and contentions raised in the writ petition.

It is further clarified that this order shall not preclude the petitioner from availing of such efficacious alternative remedy as may be available to the petitioner, and as it may be advised.

In the result, writ petition is dismissed at admission stage with liberty as aforesaid reserved to the petitioner. No order as to costs.

JUSTICE M.H.S.ANSARI

JUSTICE T.CH.SURYA RAO

28th January, 2005

PGS

To

1. The Official Liquidator, High Court of Andhra Pradesh, Kendriya Sdan,

Koti, Hyderabad.

2. 2 CD copies.

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND

THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 877 of 2005

(Per Sri Justice M.H.S.Ansari)

28th January, 2005